

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
Western Division

THE PROCTER & GAMBLE COMPANY,)	
)	
Plaintiff,)	CIVIL ACTION NO. C-1-02-393
)	
v.)	Hon. Walter Herbert Rice (Chief Judge)
)	Hon. Sharon Ovington (Magistrate)
THE COCA-COLA COMPANY,)	
)	
Defendant.)	
)	
)	
)	

**THE COCA-COLA COMPANY'S MOTION TO EXPEDITE CONSIDERATION OF ITS
OPPOSITION TO P&G'S MOTION TO STRIKE SUPPLEMENTAL TEST REPORT**

The Coca-Cola Company files this Motion for Expedited Consideration of its Opposition to P&G's Motion to Strike the Supplemental Test Report offered by The Coca-Cola Company. The Supplemental Test Report was served on November 24, 2003, in advance of expert depositions. The Coca-Cola Company's technical experts involved in preparing the supplemental report, Dr. Eric Wilhelmsen and Dana Krueger, are scheduled to be deposed on December 18 and December 23, 2003, respectively.

In the interests of justice and efficiency, The Coca-Cola Company respectfully requests expedited consideration of this narrow discovery issue to resolve the proper scope of these upcoming depositions. In case the Supplemental Test Report is allowed, the scheduled depositions can include inquiry into the information. Judicial economy will be served by enabling the parties to complete the expert depositions in accordance with the one-day limitation, removing any need for additional depositions relating solely to the supplemental report.

The Coca-Cola Company respectfully requests a brief oral hearing by telephone on this matter consistent with this Court's docket and time constraints. It is estimated that the hearing should not require more than 15 minutes. Accordingly, The Coca-Cola Company respectfully requests expedited consideration of this discovery issue.

Respectfully submitted,

Dated: December 17, 2003

By: /s/ Michele L. Mayberry

Donald R. Dunner, Esq. (admitted *pro hac vice*)

Gerald F. Ivey, Esq. (admitted *pro hac vice*)

Christopher P. Isaac, Esq. (admitted *pro hac vice*)

Robert L. Burns, Esq. (admitted *pro hac vice*)

Michele L. Mayberry, Esq. (admitted *pro hac vice*)

FINNEGAN, HENDERSON, FARABOW,

GARRETT & DUNNER, L.L.P.

1300 I Street, N.W., Suite 700

Washington, DC 20005-3315

Telephone: (202) 408-4000

Facsimile: (202) 408-4400

e-mail: michele.mayberry@finnegan.com

Roger J. Makley

Trial Attorney (Reg. No. 0018702)

COOLIDGE, WALL, WOMSLEY & LOMBARD

33 West First Street, Suite 600

Dayton, Ohio 45402

Telephone: (937) 223-8177

Facsimile: (937) 223-6705

Michael J. Kline, Esq.

Michael V. Kruljac, Esq.

The Coca-Cola Company

P.O. Box 1734

Atlanta, GA 30301

Telephone: (404) 676-3162

Facsimile: (404) 676-7636

LOCAL RULE 7.3(b) CERTIFICATION

Counsel for Defendant The Coca-Cola Company has consulted with counsel for Plaintiff P&G and a mutually-agreeable time for an oral hearing is under consideration.

/s/ Michele L. Mayberry

Michele L. Mayberry

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of The Coca-Cola Company's Motion to Expedite Consideration of its Opposition to P&G's Motion to Strike Supplemental Test Report was served on this 17th day of December 2003, via Facsimile and Federal Express to Plaintiff's counsel:

Mark A. Vander Laan
Dinsmore & Shohl L.L.P.
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202-3172
(513) 977-8200

William F. Lee
David B. Bassett
Vinita Ferrera
Hale and Dorr LLP
60 State Street
Boston, Massachusetts 02109
(617) 526-6000

/s/ Michele L. Mayberry
Michele L. Mayberry